

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

IN RE: OHIO EXECUTION
PROTOCOL LITIGATION

: Case No. 2:11-cv-1016

District Judge Edmund A. Sargus, Jr.
: Magistrate Judge Michael R. Merz

This document relates to:

All Plaintiffs.

:

**REPORT AND RECOMMENDATIONS REGARDING DRUG
SOURCE DEFENDANTS**

This consolidated method of execution case under 42 U.S.C. § 1983 case is before the Court the parties' responses to the Court's March 9, 2023, *sua sponte* Order to Show Cause regarding the continued pendency of this case against unnamed and unserved Drug Source Defendants¹ (ECF No. 3866). Plaintiffs responded they had no objections to dismissal of the Drug Source Defendants without prejudice provided the Court ordered Defendants to supply certain pertinent information (ECF No. 3867). Defendants opposed imposition of those conditions (ECF No. 3869). Plaintiffs have now notified the Court that they have no objection to dismissal of those Defendants without prejudice "consistent with the Court's prior ruling in the case . . . that the statute of limitations as to Plaintiffs' claims against the Drug Source Defendants has not begun to run, and will not begin to run until Plaintiffs identify those Defendants." (ECF No. 3876, PageID

¹ "UNKNOWN PHARMACIES #1-100, UNKNOWN PHARMACISTS #1-100, UNKNOWN DRUG SUPPLIERS #1-25; and JOHN DOES #1-25," (collectively "Drug Source Defendants").

168473, quoting ECF No. 2187, PageID 106802–03). That prior ruling constitutes the law of the case.

The time provided for service of process under Fed.R.Civ.P. 4(m) has expired and none of the Drug Sources Defendants has been served with process. It is therefore respectfully recommended that they be dismissed without prejudice.

April 24, 2023.

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. #

s/ *Michael R. Merz*
United States Magistrate Judge